
UTAH LABOR COMMISSION

COREY ROGERS,

Petitioner,

vs.

HOME DEPOT,

Respondent.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 06-0235

Home Depot asks the Utah Labor Commission to review Administrative Law Judge Sessions' award of benefits to Corey Rogers under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Rogers filed a claim for workers' compensation benefits for bilateral carpal tunnel syndrome allegedly caused by repetitive trauma from his employment at Home Depot. Judge Sessions held an evidentiary hearing on Mr. Rogers' claim and then awarded benefits. In its motion for review of Judge Sessions' decision, Home Depot argues that Judge Sessions should have appointed a medical panel to consider Mr. Rogers' claim.

FINDINGS OF FACT

The Commission finds the following facts relevant to the issue raised in Home Depot's motion for review.

Home Depot employed Mr. Rogers from July 2003 until mid-April 2006. His duties included driving a truck throughout Nevada, Arizona and Southern Utah, loading and unloading the truck, stocking shelves and pulling orders. During November 2005, Mr. Rogers began to experience numbness and pain in his arms. He was diagnosed with bilateral carpal tunnel syndrome and underwent corrective surgery during January 2006.

Dr. Jevsevar, Mr. Rogers' treating physician, has expressed the opinion that Mr. Rogers' work duties at Home Depot caused his carpal tunnel syndrome. Dr. Chung, who examined Mr. Rogers on behalf of Home Depot declined to express an opinion as to whether Mr. Rogers' work at Home Depot caused his carpal tunnel syndrome.

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DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers to pay workers' compensation benefits to employees injured by accident arising out of and in the course of employment. Injuries are considered to "arise out of" employment if the work is both the "legal" and "medical" cause of injury. Allen v. Industrial Commission, 729 P.2d 15 (Utah 1986). It is the issue of medical causation that is in dispute in this case.

Section 34A-2-601 of the Act authorizes the Commission to appoint impartial medical panels to assist in resolving the medical aspects of disputed workers' compensation claims. Pursuant to the Commission's Rule R602-2-2, medical panels should be used in those cases "where one or more significant medical issues may be involved. **Generally a significant medical issue must be shown by conflicting medical reports.**" (Emphasis added.)

Home Depot argues that a difference of opinion between Dr. Jevsevar and Dr. Chung requires appointment of a medical panel in this case. However, the Commission does not view the two doctors' opinions as necessarily in conflict. While Dr. Jevsevar opines that Mr. Rogers' carpal tunnel syndrome was caused by his work at Home Depot, Dr. Chung merely observes that he does not have sufficient information to express an opinion one way or the other. Dr. Chung's opinion is too equivocal to create a medical controversy that would warrant appointment of a medical panel.

In light of the foregoing, the Commission accepts Dr. Jevsevar's opinion that Mr. Rogers' work at Home Depot medically caused his carpal tunnel syndrome. On that basis, the Commission concurs with Judge Sessions' determination that Mr. Rogers is entitled to workers' compensation benefits.

ORDER

The Commission affirms Judge Sessions' decision. It is so ordered.

Dated this 15th day of March, 2007.

Sherrie Hayashi
Utah Labor Commissioner